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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,198	07/18/2003	Carlos Duarte	50229/MEG/F314	4042

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EXAMINER
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KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,198

Applicant(s)

DUARTE ET AL.

Examiner

Michael J. Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 7, and 9-21 is/are rejected.
- 7) ☒ Claim(s) 5 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6, 7, 9, and 13-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry (U.S. Patent No. 6,381,766). With respect to claims 1, 2, 6, and 7, Perry discloses a hinge assembly for a spa cover comprising a mounting bracket (172, figure 4) installed near a top of a spa, a slide bracket (166) and a support arm (40) fixedly attached to the spa cover and pivotably coupled to the slide bracket. The slide bracket (40) has a front and rear end and is adapted to slide with respect to the mounting bracket independently of a pivotal movement of the support arm about the pivot point on the slide bracket. The rear end near the slide bracket (40) is moved in an upward direction as the slide bracket is slidably extended from the mounting bracket. The spa cover is adapted to slide rearward and then rotate about the pivot point.

3. With respect to claim 9, Perry discloses the support arm to be attached to the spa cover by a metal plate disposed on the outside of the spa cover.

4. With respect to claim 13, Perry discloses a method where the spa cover (26) is removed from the spa (30) by sliding the spa cover towards a rear end of the spa to a first position where a rear edge of the spa cover protrudes rearward from the rear end of the spa. This must occur in order to provide clearance of the cover to be removed. Perry further discloses folding the spa

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cover into two substantially equal sections (see figure 5), and rotating the spa cover (see figure 5).

5. With respect to claims 14 and 15, Perry discloses a spa cover where the cover (26) is slid rearward, and rotated (see figure 5). As the cover is slid toward the rear, the rear edge of the cover is lifted from the spa. The sliding to the first position takes place prior to the rotating of the cover to a second position, and prior to folding the spa cover into equal sections.

20. Regarding claims 16 and 17, Perry shows the sliding of the spa cover toward the rear of the spa takes place prior to the folding of the spa cover, and the folding of the spa cover takes place prior to the rotating of the spa cover.

6. With respect to claim 18, Perry discloses the spa cover (26) is rotated so as to cover the spa about half way (when replacing the cover on the spa), and is slid towards a front of the spa.

7. With respect to claims 19 and 20, Perry discloses the rear edge of the cover is moved downward as the cover is slid toward the front of the receptacle. The rotation of the cover back so as to cover the spa about half way takes place before the sliding of the cover. It is noted that all of these steps are capable of being performed with the arrangement in Perry.

8. With respect to claim 21, Perry discloses the step of rotating the spa cover to the second position comprises rotating the spa cover so as to remove it completely from being over the spa.

### *Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Genova (U.S. Patent No. 5,996,137). Perry does not disclose the mounting bracket to include two side plates connected by a web.

11. Genova discloses a hinge for a spa cover that includes a mounting bracket (30). The mounting bracket includes two side plates (35) and web (36). The side plates inherently make the bracket stronger in the direction perpendicular to the bracket and spa (the direction that would intersect the bracket and spa, for example from the top to the bottom of page in figure 4 of Genova), by increasing the resistance to bending in that direction. The bracket also includes a hole. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Perry, such that Perry's mounting bracket includes two side plates, in order to strengthen the Perry's bracket.

12. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Reiker (U.S. Patent No. 6,423,899). Perry does not disclose the metal plate to be affixed to the spa cover by double-sided tape.

13. Reiker teaches a metal plate (24) that is secured to a support by double-sided tape (140). Reiker secures the plate with double sided tape so that the plate may be at least temporarily located on the support (column 3, lines 31-36). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Perry as taught by Reiker to at least temporarily secure the metal plate to the spa cover. This would allow for adjustment of the location of the metal plate prior to fastening the plate on the spa cover with screws.

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14. With respect to claim 11, Perry discloses the metal plate to have a hole formed therein that receives a screw, such that the screw is anchored in the spa cover by rotating the screw.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Reiker as applied to claim 11 above, and further in view of Ito (U.S. Patent No. 6,139,236).

Neither Perry nor Reiker discloses a deformable anchor engaged with screw.

16. Ito teaches fastening arrangement where a screw (15) is engaged with a deformable anchor (10), wherein the anchor is deformed and embedded inside a board as the screw is rotated. The anchor of Ito permits objects to be fastened a wall of fragile material. The board (21) is analogous to the spa cover of the present invention. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Perry and Reiker, as taught by Ito, so that the supporting arm may be fastened to the spa cover with damaging the spa cover.

#### ***Allowable Subject Matter***

17. Claims 5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claim 3 is allowed.

#### ***Response to Arguments***

19. Applicant's arguments with respect to claim 1, 2, 4, 6, 7, 13, 18 have been considered but are moot in view of the new ground(s) of rejection. These claims are now rejected based on Perry (U.S. Patent No. 6,381,766) or a combination of Perry and Genova.

***Conclusion***

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk

  
ROBERT J. SANDY  
PRIMARY EXAMINER